

Lister Avenue Brownfields Development Area
Minutes of Meeting

March 2, 2005

Prepared by Albert I. Telsey, Esq.

Attendees

Joel Freiser Newark Urban Enterprise Zone
Steven Kehayes NJDEP LABDA Project Manager
Sally Jones Weston (for Sherwin Williams)
Glenn Schultz..... SC Holdings
Gordon Kuntz..... Sherwin-Williams
Rick McNutt..... Tierra Solutions
Elizabeth Butler USEPA Remedial Project Manager
Albert I. Telsey, Esq. Ironbound Business Association

1. Schedule of 2005 LABDA Meetings. First Wednesday of every other month at 1 pm at the offices of Newark UEZ, 50 Park Place, Robert Treat Center, Suite 820, Newark, NJ.

January 5, 2005	July 6, 2005
March 2, 2005	September 7, 2005
May 4, 2005	November 3, 2005

2. Bill Hyatt, Esq. to attend next meeting on 5-4-05. Bill Hyatt, Esq., is a lead attorney with the Lower Passaic River natural resource damage (NRD) defendant group. He will provide a summary of NRD settlement efforts so the LABDA group can consider coordinating its NRD settlement as part of the BDA process with the Lower Passaic River group, to the extent the LABDA group members are not already a part of the Power Passaic River defendant group.

3. Groundwater Subcommittee Report. The Groundwater Subcommittee obtained available data for sites within the LABDA and sites within the larger Ironbound area. They evaluated the data for the purpose of developing a groundwater strategy for the LABDA sites that would utilize the advantages of the DEP Commingled Plumes Area (CPA) Guidance Document (5/20/03). The Subcommittee distributed a Proposed Remediation Strategy Memo (with attachments) for discussion. A copy of the memo is attached. For a variety of reasons, the Subcommittee indicated that the LABDA should only be responsible for addressing groundwater contamination in the surficial aquifer, not the deeper aquifer. Steve Kehayes provided comment. He prefaced his remarks with the condition that his opinions have not been reviewed or approved by a DEP hydrogeologist. Nevertheless, he said that the subcommittee proposal appeared to make sense. He said

the group should be prepared to provide data to DEP in a GIS compatible format to show (i) the quality of groundwater entering the LABDA and leaving the LABDA (horizontal delineation); (ii) that the LABDA sites are not contributing to the contamination of the deeper aquifer (vertical delineation); and (iii) that the LABDA group has eliminated onsite sources contributing to groundwater contamination. If this can be done, then DEP should be amenable to the argument, based on statute, that LABDA property owners/operators are not responsible for onsite contamination originating from an offsite source. DEP would also be amenable to an appropriate institutional control, e.g., Classification Exception Area (CEA). This strategy would provide control, which would be satisfactory to DEP. The group intends to proceed further in accordance with this general reaction.

The City owns the Duralac site within LABDA. Joel said that the City would look to file and obtain a Hazardous Discharge Site Remediation Fund (HDSRF) grant to do soil and groundwater work at the site in order to contribute to the work required by the group. Steve Kehayes reminded Joel to stress the fact that Duralac is in a BDA since BDAs get priority funding.

4. Prevent piecemeal redevelopment by a one-year Standstill Agreement. The group was concerned that one or more of its members might be persuaded to sell/redevelop their parcel independent of the group. This would be considered hurtful to the group's BDA efforts even though it might not be hurtful to the member selling its parcel. A suggestion was made that, in order to preserve the integrity of the LABDA effort and prevent piecemeal sell-off of member parcels, each member owning property should enter into a one-year Standstill Agreement that would prohibit each member from selling its own parcel without the written consent of the group. This would give the group comfort that the group would have at least one year to try to put together a BDA redevelopment plan that looked attractive to the group. A consensus on this point was not obtained and should be confirmed prior to the next meeting. If consensus is obtained, a draft Standstill Agreement should be developed and submitted for member comment.

5. Request for Proposal (RFP) for Planning Services. Joel will be soliciting proposals from four planners to assist the group with its redevelopment efforts. The planners include the following: North American Realty Group, Clough Harbour/Donohoe team, Schoor DePalma team and Community Grants & Planning, P.A. The RFP is attached. The schedule is as follows:

RFP Issues	April 4, 2005
Selection of short list	March 3, 2005
Award Contract	May 14, 2005
Confirm Scope	May 23, 2005
Commence Project	May 23, 2005
Review Draft Plan	July 6, 2005
Complete Final Plan	August 6, 2005
Release Final Plan to Developers	August 10, 2005
Developer Presentations	September 7, 2005

6. Framework for undertaking property redevelopment. Joel suggested that the City could designate the LABDA as an area in need of redevelopment. This approach is probably not necessary in the context of the LABDA given the cooperative spirit of its members and the fact that the city is a property-owning stakeholder in the group. The LABDA group can make its own planning/redevelopment decisions and can evaluate appropriate redevelopment candidates, e.g., Morris Companies and others, giving consideration to the redevelopment needs of the City and the Ironbound in particular.

Proposed Remediation Strategy
LABDA, Newark New Jersey
February 24, 2005

The LABDA is aggressively pursuing Brownfield redevelopment of the Lister Avenue properties. The purpose of this paper is to identify a primary strategy for remediation consistent with protecting the environment while advancing the objective of Brownfield redevelopment.

While the group recognizes that impacts may have occurred within the boundaries of the LABDA, the LABDA is situated within an area of Newark that has been regionally impaired by historic industrial operations. The overall objective of the remediation strategy is to achieve a reasonable site-wide remedy that does not offset the advantages of the BDA approach. In order to attract developers or end users to purchase the properties and return them to beneficial uses, environmental liabilities must be quantifiable and reasonable.

- For these reasons, the LABDA recognizes the following:
 - Remedial investigations (RIs) for soils have been, or will be, completed at all properties.
 - Sources of contamination shall be identified and delineated.
 - RIs for shallow groundwater have been, or will be, completed for all properties, and the dissolved-phase plume shall be delineated within the LABDA (no free-phase product exists).
 - Soil remediation has been, or will be, completed for all properties.
 - Remediation of the sources of groundwater contamination in the surficial aquifer will be completed.
 - There are no IECs present, and there are no off-site impacts within the surficial aquifer.
- The LABDA also recognizes that the glacial and bedrock aquifers are regionally and historically contaminated.
 - As shown in Attachment A, the aquifers are regionally contaminated.
 - No potable water supply wells are located within the LABDA or within the City of Newark (see Attachment B).
 - Remediation of these regionally impacted aquifers is technically infeasible, particularly on a site-by-site basis, due to the aerial extent and depth of the impacts, and given the limitations of available technology.
- Therefore, the LABDA will address contaminant sources, soil contamination and groundwater contamination in the surficial aquifer.

City of Newark, New Jersey
Department of Administration
Newark Office of the Urban Enterprise Zone

LISTER AVENUE BROWNFIELD DEMONSTRATION AREA (LABDA)

REQUEST FOR PROPOSALS

The City of Newark Office of the Urban Enterprise Zone, acting on behalf of the LABDA Steering Committee, invites proposals from consortia of professional land use planning, engineering, architectural, urban design, real estate market analysis, land use and environmental law firms to formulate a Land Use Development Action Plan for the Lister Avenue Brownfield Demonstration Area (LABDA) located in the East Ward of Newark.

Background

In 2002, a consortium, including the City of Newark Office of the Urban Enterprise Zone (“NOUEZ”), community stakeholders (The Ironbound Community Corporation and the Ironbound Business Association) and property owners¹, applied to the New Jersey Department of Environmental Protection (“NJDEP”) for recognition as a Brownfield Demonstration Area (BDA)².

The project area consists of approximately 20 acres of land located along Lister Avenue to the south and the Passaic River to the north; a heavy industrial area with a history of chemical manufacturing.

In the fall of 2002, NJDEP approved the LABDA Application. In December 2004, the parties to the Application executed a Memorandum of Understanding, Participation Agreement and Steering Committee Agreement, to commence project implementation.

The goal of the NJDEP BDA Program³ is to accelerate coordinated environmental remediation and beneficial economic re-use of five contiguous Brownfield sites, with dedicated technical coordination by NJDEP. LABDA also provides for future expansion of the Project Area, as described on Map X of the Application.

LABDA is governed by a Steering Committee consisting of:

- Property owners (City of Newark, Sherwin-Williams, Tierra Solutions, Waste Management.
- City of Newark

¹ Owners include the City of Newark, Sherwin-Williams Corporation, Tierra Solutions, Waste Management and Drum Services of Newark.

² Application for Lister Avenue Brownfield Demonstration Area, Dated April 2002. See CD-ROM

³ See NJDEP Website for BDA background and terms of reference at <http://www.nj.gov/dep/srp/brownfields/bda/announce2003a.htm>

- New Jersey Department of Environmental Protection
- Ironbound Community Corporation
- Ironbound Business Association

Overall Plan Goal

The Objective of the Engagement is to produce an “optimized solution” consisting of an integrated development program for LABDA, based upon the key variables of: NJDEP site remediation requirements, the economic and business objectives of the property owners, municipal master planning objectives for the area, the concerns and expressed needs of the adjoining Ironbound residential neighborhoods for jobs and open public recreation space, real estate market conditions and tenant demand for light industrial space. The above is also to be viewed in the context of New Jersey Smart Growth Planning Principles.

Specific Planning Objectives

1. Land Use
2. Economic Development
3. Job Creation
4. Open Space and Recreation
5. Environmental Protection
6. Infrastructure
 - a. Transportation
 - i. Streets and Roads
 - ii. Rail
 - iii. Air
 - iv. Sea
 - b. Water and Sewer
 - c. Energy
7. Relationship to and impact upon neighborhood, ward and citywide land use and master planning goals and objectives.

Schedule

The Work Plan and delivery of Work Products shall be completed in a period not to exceed ninety day. Proposals may present their arguments supporting a shorter or longer delivery schedule, based upon its assessment of the overall goal, objective and work products required.

RFP Issues	April 4, 2005
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Methodology

Proposals must include an implementation methodology providing for

- Consultation with LABDA Steering Committee
- Document Review
- Interviews with key informants
- At least two community meetings to gather data on existing conditions and present at least two alternative physical development scenarios for LABDA
- Presentation of interim report of findings and recommendations to steering committee for feedback.
- Monthly progress reports to LABDA Steering Committee.
- Actionable work products including but not limited to:
 - Redevelopment Investigation Report
 - Land use and economic analysis for the LABDA Expansion Area.
 - Redevelopment Plan
 - Draft municipal legislation for above
 - Disposition parcel(s) physical disposition options and alternative analysis, findings and recommendations.
 - Proposed LABDA Development Program
 - Disposition and Redevelopment Site(s) Marketing Package.
 - Detailed deal structure options and projected pro-formas for marketing and disposition of redevelopment parcel(s).
 - Detailed physical infrastructure requirements and capital project budget estimates.
 - Detailed implementation strategy and schedule recommendations.
 - Identify NJDEP permit requirements.
 - Draft Request for Redeveloper Expression of Interest/Proposal based upon Approved Vision and Redevelopment Concept Plan.

Deliverables

- Monthly written narrative report and presentation to LABDA Steering Committee and discussion/feedback session.
- Initial Draft Report at schedule mid-point.
- Presentation of Final Draft Report to Steering committee and Discussion.

- Participation in preliminary interviews with short list of developers invited to present proposals within framework of Proposed LABDA Development Program.

Final Work Product

The final work product shall include a written report, power point presentation and supporting graphics in both hard copy and electronic format. All work products shall become the property of the LABDA Steering committee and the City of Newark, New Jersey.

Depending upon the funding source, the contracting entity on behalf of the LABDA Steering Committee may vary. The selected Project Consultant Consortium will be offered a contract to fund the final scope of services on behalf of LABDA by either the City of Newark or another party acting on behalf of the LABDA Steering Committee.

Fee Structure and Budget

Proposal must breakdown fee cost structure by individual team member and billing rate with resume of each team member. Cost shall also be broken down by work product and deliverable. Management reserves the right to make mid-course corrections to the scope as but does not anticipate expanding the scope and hence the cost, unless by mutual agreement by the contractual parties.

Solely for purposes of discussion and proposal development, the estimated budget for this engagement must fall within the range of \$85,000-\$125,000.00.

Pre-Bid Conference and Proposal Evaluation Process

A pre-bid informational meeting will convene on January 26, 2005 at 10 AM, NOUEZ, 50 Park Place, Suite 820, Newark, NJ 07102.

Consultant Selection

The LABDA Steering Committee will make the final selection of the consultant consortium. The Steering Committee will consider the recommendation of its designated selection committee.

Project Management

The Newark Office of the Urban Enterprise Zone will manage the Project on behalf of the LABDA Steering Committee. Work Plan implementation includes monthly participation by the Steering committee. Expressions of interest, questions or comments should be directed to:

Joel Freiser, Director
LABDA Steering Committee

Newark Office of the Urban Enterprise Zone
50 Park Place, Suite 820
Newark, NJ 07102
Phone: 973-424-4154, Ext. 1010